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C O N F I D E N T I A L SECTION 01 OF 02 PRAGUE 000529

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E.O. 12958: DECL: 05/10/2017
TAGS: [PREL](#) [PGOV](#) [MASS](#) [MARR](#) [EZ](#)
SUBJECT: FIRST VISIT OF STATUS OF FORCES NEGOTIATION TEAM
TO PRAGUE

Classified By: DCM Cameron Munter
for reasons 1.4 (b) and (d)

11. (C) Summary: Ambassador Robert Loftis and an interagency delegation met with representatives of the Czech Government in Prague to open negotiations on a supplemental Status of Forces Agreement (SOFA) May 10-11. Overall, discussions were productive and the Czech negotiation team was well-prepared. However, it is clear that the United States and the Czech Republic start from fundamentally different views on the scope of the agreement. The Czechs held that the scope should be limited to the proposed missile defense radar site, whereas we consider the agreement to be the framework for a range of cooperative activities, including missile defense. Part of this difference may be due to Czech government efforts to make the agreement, and missile defense cooperation more broadly, acceptable to members of the opposition. Specific areas of concern included criminal jurisdiction, and questions on how force security would operate. Loftis is confident none of these differences is a true "red line" for the Czechs. End summary.

SCOPE OF AGREEMENT MAJOR PHILOSOPHICAL DIFFERENCE

12. (C) Deputy Foreign Minister Tomas Pojar began by stating that the scope of discussions should be limited solely to the radar base. He added the bilateral agreement should not exceed the NATO SOFA and, for domestic political reasons, the U.S.-Czech SOFA supplemental should be &similar to agreements signed with Western Europe,⁸ as opposed to those signed with Bulgaria and Romania. (Note: Ambassador Loftis, addressing this point, noted the difficulties that would ensue from having different SOFA agreements for different functions, creating different rules for different U.S. forces in the Czech Republic, and reminded the Czech side that the SOFA alone did not authorize any U.S. troops to be based in their country. End note). Pojar discussed at length the domestic political difficulties associated with finalizing this agreement. He expressed optimism that the negotiations would ultimately be successful, but stressed the need for the United States to be flexible in achieving a positive result. Throughout the negotiations, the Czech side noted provisions that would not be acceptable to parliament, occasionally invoking articles of the Czech constitution. One such example was Pojar's suggestion of a symbolic fee for use of military facilities to emphasize to the opposition and the public that sovereignty would not be ceded to the United States. Ambassador Loftis said he understood their concern but was firm that the U.S. does not pay rent for such mutually beneficial arrangements, while noting that there are other means of affirming Czech sovereignty.

AREAS OF GENERAL AGREEMENT

13. (C) The Czechs agree the NATO SOFA is the underlying basis for these discussions. However they did suggest that the bilateral supplemental should not extend the agreement, but only "fill gaps."

14. (C) The Czechs did not raise specific objections or provide alternate language on most provisions, but often added the caveat that &more precise8 language was needed to capture U.S. intent while addressing Czech concerns. Most importantly, both sides appeared committed to reach a positive outcome. However, Pojar said that it was their intent to forward both the supplemental SOFA and the Missile Defense Agreement to Parliament together.

AREAS FOR FURTHER CONCENTRATION

15. (C) In terms of specific provisions, the most contentious article appeared to be those on criminal jurisdiction. The Czech side did not like the idea that it would waive its primary right to exercise criminal jurisdiction in advance on a range of offences, and preferred that the agreement leave default authority criminal jurisdiction to Czech authorities.

16. (C) Another issue of concern centered on U.S. security procedures, particularly with regards to the right to carry firearms and on U.S. rules of use of force. After a thorough discussion, both sides agreed it would be necessary to draft complementary arrangements to define each side's obligations.

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17. (C) The Czech side also requested that the agreement specify the location, duration, and total number of U.S. forces that could be stationed on Czech territory. (Note: this is a politically sensitive question in terms of parliamentary approval. End note.) No specific number was mentioned and the Czechs did not indicate that such language had to appear in the supplemental SOFA vice the Missile Defense agreement.

18. (C) Draft SOFA supplemental articles requesting Czech assistance for training outside designated military areas met with some confusion because Czech military units are not permitted to train or operate in this fashion. They said they would expect U.S. forces to be subject to the same laws and regulations in this regard as Czech forces.

NEXT STEPS

19. (C) The two sides agreed to a series of information exchanges in the coming weeks, including briefings on environmental concerns and U.S. contracting practices. The Czechs intend to study the text further and provide a "counter-proposal" based on these discussions, using the U.S. draft as a point of departure. Informally, Czech officials indicated that the next meeting could possibly take place in mid-July.

COMMENT

110. (C) This was a thoroughly prepared Czech team that shares the U.S. objective of getting to a workable agreement that can survive the Parliamentary ratification process. It is clear that a great deal of work remains, particularly given the different philosophical approach on whether the SOFA should be of general application, or specific to the radar site. The Czech side appreciated and understood Ambassador Loftis' explanation of the reasons for this to be a broadly-focused agreement, but there needs to be an evolution

in their political thinking before we can expect a change in their position. Loftis expressed optimism that this can happen.

¶11. (C) Comment continued: We can expect the Czechs to approach the May 22 negotiations on the Missile Defense Agreement in a similar manner, with detailed commentary on provisions and many specific questions on U.S. law and practice. That negotiation may also have more of a political element, as the Czechs are likely to address any political concerns to Assistant Secretary Rood about the overall direction and implementation of the missile defense project for Europe. End comment.

¶12. (C) This cable was cleared by Ambassador Loftis.
GRABER